

**RULES  
OF  
DEPARTMENT OF REVENUE  
INCOME TAX DIVISION**

**CHAPTER 560-7-8  
RETURNS AND COLLECTIONS**

**560-7-8-.46 Definition of Business Enterprise.**

**560-7-8-.46 Definition of Business Enterprise.**

**(1) Purpose.**

(a) This regulation identifies the North American Industry Classification System (NAICS) Codes that accompany the industries that qualify as a business enterprise under Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated.

**(2) Business Enterprise Defined.**

(a) The term “business enterprise” means any corporation, partnership, limited liability company, sole proprietorship, or other business entity or the headquarters of such business entity that is engaged in manufacturing, warehousing and distribution, processing, telecommunications, tourism, or research and development industries.

1. The term “business enterprise” excludes all child care businesses and retail businesses, except as referenced in O.C.G.A. § 48-7-40.22.

2. The Department of Revenue will use the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2002 edition, to determine whether an entity is engaged in any of the qualifying industries cited in subparagraph (2)(a).

3. Taxpayers self-select their NAICS Codes. The NAICS website is: <http://www.census.gov/epcd/www/naics.html>

(b) An entity is a business enterprise engaged in a manufacturing industry if it is classified within NAICS Sector 31-33.

(c) An entity is a business enterprise engaged in a warehousing and distribution industry if it is classified within NAICS Subsectors 423, 424 and 493.

(d) An entity is a business enterprise engaged in a telecommunications industry if it is classified within NAICS U.S. Industries 517110, 517211, 517212, 517310 and 517410.

(e) An entity is a business enterprise engaged in a research and development industry if it is classified within NAICS U.S. Industries 541710 and 541720.

(f) An entity is a business enterprise engaged in a processing industry if it is classified in NAICS Sectors 31-33; or if it engages in providing data processing services, which shall consist of only the following:

1. NAICS U.S. Industry 518210 [Data Processing, Hosting and Related Services];

2. NAICS U.S. Industry 524292 [Third Party Administration of Insurance and Pension Funds];

3. NAICS U.S. Industry 522320 [Financial Transactions Processing, Reserve, and Clearinghouse Activities];

4. NAICS U.S. Industry 511210 [Software Publishers];

5. NAICS U.S. Industry 541511 [Custom Computer Programming Services]; and

6. NAICS U.S. Industry 541214 [Payroll Services].

(g) An entity is a business enterprise engaged in a tourism industry if it is classified within:

1. NAICS Industry Group 7211 [Traveler Accommodation] however, establishments offering lodging for more than 30 consecutive days to the same customer are not deemed a business enterprise under this regulation;

2. NAICS U.S. Industry 721211 [(Recreational Vehicle) Parks and Recreational Camps] however, establishments engaged in the operation of residential trailer parks or engaged in providing accommodations for more than 30 consecutive days to the same customer are not deemed a business enterprise under this regulation;

3. NAICS U.S. Industry 721214 [Recreational and Vacation Camps (except Campgrounds)];

4. NAICS U.S. Industry 711310 [Promoters of Performing

Arts, Sports, and Similar Events with Facilities] however, sports complexes that are not open to the general public on a contract or fee basis are not deemed a business enterprise under this regulation;

5. NAICS U.S. Industry 713910 [Golf Courses and Country Clubs] that are engaged in the operation of golf courses, which are associated with a resort development, open for use by the general public on a contract or fee basis; however, establishments engaged in the operation of golf courses associated with housing developments are not deemed a business enterprise under this regulation;

6. NAICS U.S. Industry 711211 [Sports Teams and Clubs] however, for the purposes of this provision professional and semi-professional sport clubs include only those clubs that compensate athletes for their services as players and does not include amateur sport clubs, amateur sport leagues, or amateur sport associations;

7. NAICS U.S. Industry 711212 [Racetracks];

8. NAICS U.S. Industry 713110 [Amusement and Theme Parks];

9. NAICS U.S. Industry 561520 [Tour Operators] however, tour operators must operate tours within the State of Georgia to be included in this provision;

10. NAICS Subsector 487 [Scenic and Sightseeing Transportation];

11. NAICS U.S. Industry 114210 [Hunting and Trapping] that are engaged in the operation of hunting preserves, trapping

preserves, or fishing preserves or lakes open to the general public on a contract or fee basis;

12. NAICS Subsector 712 [Museums, Historical Sites, and Similar Institutions] however, establishments that derive 50 percent or more of their gross revenue from the sale of goods or merchandise are not deemed a business enterprise under this regulation.

(3) **“Retail businesses” defined.** The term “retail businesses” as used in subparagraph (2)(a)1. of this regulation means: any establishment that is primarily engaged in retailing merchandise and rendering services incidental to the sale of merchandise and included in NAICS Sector 44-45; any establishment that is primarily engaged in providing professional services and included in NAICS Industry Groups 5411, 5412 and 5413; and establishments that are primarily engaged in banking, savings and lending functions and included in NAICS Subsector 523, NAICS Industry Groups 5211, 5221, and 5222, and NAICS Industries 52231 and 52239.

**(4) Request for Determination.**

(a) In the event that a business believes it should qualify for the Job Tax Credit program, but is unsure if it meets the eligibility requirements outlined in the Code and regulation, a Request for Determination may be requested from the Department of Revenue and the Department of Community Affairs. The business should provide a detailed explanation of the activity being conducted at the business location for which the Job Tax Credits are being requested, along with any documentation to support the request. All documentation should be provided to both Departments for review. The Departments shall have 30 days from receipt of all necessary

information to complete the review and issue a joint determination regarding the eligibility of the business for the job tax credit program.

(b) In the event that a business believes that it qualifies as a business enterprise for a tax credit other than a job tax credit, but is unsure if it meets the eligibility requirements outlined in the relevant Code and regulation, a Request for Determination may be requested from the Department of Revenue. The business should provide a detailed explanation of the activity for which the tax credits are being requested, along with any documentation to support the request. The Department shall have 30 days from receipt of all necessary information to complete the review and issue a determination regarding the eligibility of the business for the tax credit.

Authority O.C.G.A. § 48-2-12.